

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

SAMUEL MARA,

20-CR-180-V  
ORDER

Defendant.

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The defendant, Samuel Mara (“Mara”), is charged in two counts of a superseding indictment. Docket Item 29. Count 1 charges Mara with making threats by interstate communications in violation of 18 U.S.C. § 875(c). *Id.* Count 2 charges Mara with cyberstalking in violation of 18 U.S.C. § 2261A(2)(B). *Id.*

As part of his omnibus pretrial motions, Mara sought dismissal of both counts of the superseding indictment. Docket Item 53. The government opposed the motion to dismiss, Docket Item 57, and Mara replied, Docket Item 65. After hearing oral argument, United States Magistrate Judge Jeremiah J. McCarthy issued a Report, Recommendation and Order (“R,R&O”). Docket Item 72. He found that because the superseding indictment was returned by a legally constituted and unbiased grand jury, because both counts tracked the language of the statute and were legally sufficient, because the government had not offered a full proffer of the evidence, and because even if it had issues of fact would remain, the extraordinary remedy of dismissal was inappropriate. *Id.* He therefore recommended that the motion to dismiss be denied. *Id.*

Despite being granted ten extensions of time, Mara did not object to the R,R&O, and the time to object has now expired. For that reason, the defendant has waived his

right to have the R,R&O reviewed. See Fed. R. Crim. P. 59(b)(2) (“Failure to object in accordance with this rule waives a party’s right to review.”); *see also* Docket Item 72.

Nevertheless, in its discretion, this Court has carefully reviewed the R,R&O as well as the parties’ submissions to Judge McCarthy in connection with the motion to dismiss. Based on that review and the absence of any objection, and for the reasons stated in the R,R&O, this Court adopts the R,R&O in its entirety. Mara’s motion to dismiss is DENIED.

SO ORDERED.

Dated: April 27, 2022  
Buffalo, New York

*s/ Lawrence J. Vilardo*  
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LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE